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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/098,629	03/18/2002	Ignacy Puzskiewicz	3638-28	3711
23117	7590	06/17/2004	EXAMINER	
NIXON & VANDERHYE, PC 1100 N GLEBE ROAD 8TH FLOOR ARLINGTON, VA 22201-4714			BRAHAN, THOMAS J	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/098,629

Applicant(s)

PUSZKIEWICZ ET AL.

Examiner

Thomas J. Brahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-5, 8, 9, 16-19, 22 and 23 is/are allowed.
- 6) ☒ Claim(s) 1, 6, 7, 10-15, 20, 21 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

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1. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

2. Claims 1, 6, 7, 10, 12-15, 20, 21 and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hatamura in view of Abels et al. Figure 4 of Hatamura shows the basic claimed pin which detects force components along two perpendicular axes, see column 8, lines 33-36. It teaches the placement of these pins at the boom pivot (116) and the boom lift cylinder pivot (117), see figure 17. Hatamura varies from the claims by not specifying that the pins' signals control the vehicle's driving components based upon a continuous rated capacity to avoid moments leading to instability. Abels et al shows a similar load monitoring system which maintains the loading within predescribed boundaries, see column 4, lines 9-20 to avoid instability (tilting). It would have been obvious to one of ordinary skill in the art to have the load detecting system of Hatamura by having its loading compared with predescribed boundaries, as to have it maintained within safe limits to avoid tipping over, as taught by Abels et al.

3. Claim 11 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Hatamura in view of Abels et al, as applied above to claim 1, and further in view of Miyasaki. Hatamura, as modified, shows the basic claimed load monitoring system. It varies from claim 11 by not having a microprocessor located at the pins. Miyasaki shows a similar a similar load measuring system and teaches placing a microprocessor (41 or 54) at the pin. It would have been obvious to one of ordinary skill in the art to modify the load sensing system of Hatamura by providing the sensor pins with internal microprocessors, for increased accuracy, as taught by Miyasaki.

4. Claims 2-5, 8, 9, 16-19, 22 and 23 are allowable.


5. Applicant argues in the amendment filed March 24, 2004 that the vehicles of Hatamura are not boomed vehicles, and that the vehicles are not concerned with vehicle stability. However the term "boomed" with respect to its use on a vehicle is broad, and the bucket supports, such as shown in figure 17 of Hatamura are considered as booms. Although the reference of Hatamura discusses does not discuss vehicle stability, the reference of Abels et al uses its load pins for determining moments related to its vehicle stability. As it uses similar load measuring pins

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as Hatamura, the references are readily combinable. The amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. An inquiry concerning this communication should be directed to Thomas J. Brahan at telephone number (703) 308-2568. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for all patent applications is (703) 872-9306.


Thomas J. Brahan
Primary Examiner
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